

109TH CONGRESS
1ST SESSION

H. R. 3842

To amend the Internal Revenue Code of 1986 to reduce the Federal excise tax on highway motor fuels when the weekly United States retail gasoline price, regular grade, is greater than \$3.00 per gallon.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2005

Mr. KUHLMAN of New York introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to reduce the Federal excise tax on highway motor fuels when the weekly United States retail gasoline price, regular grade, is greater than \$3.00 per gallon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Gas Price
5 Relief Act of 2005”.

1 **SEC. 2. REDUCTION OF FUEL TAXES ON HIGHWAY MOTOR**
 2 **FUELS WHEN WEEKLY UNITED STATES RE-**
 3 **TAIL GASOLINE PRICES EXCEED BENCH-**
 4 **MARK.**

5 (a) IN GENERAL.—Section 4081 of the Internal Rev-
 6 enue Code of 1986 (relating to imposition of tax on motor
 7 and aviation fuels) is amended by adding at the end the
 8 following new subsection:

9 “(f) REDUCTION OF HIGHWAY MOTOR FUEL TAXES
 10 WHEN RETAIL GASOLINE EXCEEDS BENCHMARK.—

11 “(1) IN GENERAL.—During any reduction pe-
 12 riod, the rate of tax imposed by section 4041 or
 13 4081 on highway motor fuel shall be reduced by 10
 14 cents per gallon.

15 “(2) DEFINITIONS AND SPECIAL RULE.—For
 16 purposes of this subsection—

17 “(A) REDUCTION PERIOD.—The term ‘re-
 18 duction period’ means the period—

19 “(i) beginning on the date on which
 20 the weekly United States retail gasoline
 21 price, regular grade (as published by the
 22 Energy Information Administration, De-
 23 partment of Energy), is greater than \$3.00
 24 per gallon, and

1 “(ii) ending on the date on which such
2 price (as so published) is less than \$2.50
3 per gallon.

4 “(B) HIGHWAY MOTOR FUEL.—The term
5 ‘highway motor fuel’ means any fuel subject to
6 tax under section 4041 or 4081 other than
7 aviation gasoline and aviation-grade kerosene.”.

8 (b) MAINTENANCE OF TRUST FUNDS DEPOSITS;
9 AMOUNTS APPROPRIATED TO TRUST FUNDS TREATED AS
10 TAXES.—

11 (1) IN GENERAL.—There is hereby appro-
12 priated (out of any money in the Treasury not other-
13 wise appropriated) to each trust fund which would
14 (but for this subsection) receive reduced revenues as
15 a result of a reduction in a rate of tax by reason of
16 section 4081(f)(1) of the Internal Revenue Code of
17 1986 (as added by this section) an amount equal to
18 such reduction in revenues. Amounts appropriated
19 by the preceding sentence to any trust fund—

20 (A) shall be transferred from the general
21 fund at such times and in such manner as to
22 replicate to the extent possible the transfers
23 which would have occurred had subsection (a)
24 not been enacted, and

1 (B) shall be treated for all purposes of
2 Federal law as taxes received under the appro-
3 priate section referred to in such section
4 4081(f)(1).

5 (c) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **SEC. 3. FLOOR STOCK REFUNDS.**

9 (a) IN GENERAL.—If—

10 (1) before the tax rate reduction date, tax has
11 been imposed under section 4081 of the Internal
12 Revenue Code of 1986 on any highway motor fuel,
13 and

14 (2) on such date such fuel is held by a dealer
15 and has not been used and is intended for sale,
16 there shall be credited or refunded (without interest) to
17 the person who paid such tax (hereafter in this section
18 referred to as the “taxpayer”) an amount equal to the ex-
19 cess of the tax paid by the taxpayer over the tax which
20 would be imposed on such fuel had the taxable event oc-
21 curred on such date.

22 (b) TIME FOR FILING CLAIMS.—No credit or refund
23 shall be allowed or made under this section unless—

24 (1) claim therefor is filed with the Secretary of
25 the Treasury before the date which is 6 months

1 after the tax rate reduction date based on a request
2 submitted to the taxpayer before the date which is
3 3 months after the tax rate reduction date by the
4 dealer who held the highway motor fuel on such
5 date, and

6 (2) the taxpayer has repaid or agreed to repay
7 the amount so claimed to such dealer or has ob-
8 tained the written consent of such dealer to the al-
9 lowance of the credit or the making of the refund.

10 (c) EXCEPTION FOR FUEL HELD IN RETAIL
11 STOCKS.—No credit or refund shall be allowed under this
12 section with respect to any highway motor fuel in retail
13 stocks held at the place where intended to be sold at retail.

14 (d) DEFINITIONS.—For purposes of this section—

15 (1) TAX RATE REDUCTION DATE.—The term
16 “tax rate reduction date” means the first day of any
17 reduction period in effect under section 4081(f) of
18 the Internal Revenue Code of 1986 (as added by
19 section 2 of this Act).

20 (2) OTHER TERMS.—The terms “dealer” and
21 “held by a dealer” have the respective meanings
22 given to such terms by section 6412 of such Code.

23 (e) CERTAIN RULES TO APPLY.—Rules similar to the
24 rules of subsections (b) and (c) of section 6412 of such
25 Code shall apply for purposes of this section.

1 **SEC. 4. FLOOR STOCKS TAX.**

2 (a) IMPOSITION OF TAX.—In the case of any highway
3 motor fuel which is held on the tax restoration date by
4 any person, there is hereby imposed a floor stocks tax
5 equal to the excess of the tax which would be imposed on
6 such fuel had the taxable event occurred on such date over
7 the tax (if any) previously paid (and not credited or re-
8 funded) on such fuel.

9 (b) LIABILITY FOR TAX AND METHOD OF PAY-
10 MENT.—

11 (1) LIABILITY FOR TAX.—The person holding
12 highway motor fuel on the tax restoration date to
13 which the tax imposed by subsection (a) applies shall
14 be liable for such tax.

15 (2) METHOD OF PAYMENT.—The tax imposed
16 by subsection (a) shall be paid in such manner as
17 the Secretary shall prescribe.

18 (3) TIME FOR PAYMENT.—The tax imposed by
19 subsection (a) shall be paid on or before the 45th
20 day after the tax restoration date.

21 (c) DEFINITIONS.—For purposes of this section—

22 (1) TAX RESTORATION DATE.—The term “tax
23 restoration date” means the first day after the re-
24 duction period (as defined in section 4081(f) of the
25 Internal Revenue Code of 1986).

1 (2) HIGHWAY MOTOR FUEL.—The term “high-
2 way motor fuel” has the meaning given to such term
3 by section 4081(f) of such Code.

4 (3) HELD BY A PERSON.—A highway motor
5 fuel shall be considered as held by a person if title
6 thereto has passed to such person (whether or not
7 delivery to the person has been made).

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of the Treasury or the Secretary’s del-
10 egate.

11 (d) EXCEPTION FOR EXEMPT USES.—The tax im-
12 posed by subsection (a) shall not apply to any highway
13 motor fuel held by any person exclusively for any use to
14 the extent a credit or refund of the tax is allowable for
15 such use.

16 (e) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

17 (1) IN GENERAL.—No tax shall be imposed by
18 subsection (a) on any highway motor fuel held on
19 the tax restoration date by any person if the aggre-
20 gate amount of such highway motor fuel held by
21 such person on such date does not exceed 2,000 gal-
22 lons. The preceding sentence shall apply only if such
23 person submits to the Secretary (at the time and in
24 the manner required by the Secretary) such informa-

1 tion as the Secretary shall require for purposes of
2 this paragraph.

3 (2) EXEMPT FUEL.—For purposes of para-
4 graph (1), there shall not be taken into account any
5 highway motor fuel held by any person which is ex-
6 empt from the tax imposed by subsection (a) by rea-
7 son of subsection (d).

8 (3) CONTROLLED GROUPS.—For purposes of
9 this section—

10 (A) CORPORATIONS.—

11 (i) IN GENERAL.—All persons treated
12 as a controlled group shall be treated as 1
13 person.

14 (ii) CONTROLLED GROUP.—The term
15 “controlled group” has the meaning given
16 to such term by subsection (a) of section
17 1563 of such Code; except that for such
18 purposes the phrase “more than 50 per-
19 cent” shall be substituted for the phrase
20 “at least 80 percent” each place it appears
21 in such subsection.

22 (B) NONINCORPORATED PERSONS UNDER
23 COMMON CONTROL.—Under regulations pre-
24 scribed by the Secretary, principles similar to
25 the principles of subparagraph (A) shall apply

1 to a group of persons under common control if
2 1 or more of such persons is not a corporation.

3 (f) OTHER LAWS APPLICABLE.—All provisions of
4 law, including penalties, applicable with respect to the
5 taxes imposed by section 4081of such Code shall, insofar
6 as applicable and not inconsistent with the provisions of
7 this section, apply with respect to the floor stock taxes
8 imposed by subsection (a) to the same extent as if such
9 taxes were imposed by such sections.

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